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Utah Court of Appeals

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Michael Ridgway; Appellant, Pro Se.

Mark E Towner; Appellee, Pro Se .

Recommended Citation

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IN THE UTAH COURT OF APPEALS

Mark E. Towner
Petitioner and Appellee

Case 20100208-CA

v.

Michael Ridgway
Respondent and Appellant

BRIEF OF APPELLEE

**APPEAL FROM THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH
THE HONORABLE DENISE P. LINDBERG, AND
THE HONORABLE SANDRA N. PEULER**

Michael Ridgway
610 Columbus Street
Salt Lake City, Utah 84103

Appellant, Pro Se

Mark E. Towner
1331 Green Street
Salt Lake City, Utah 84105

Appellee, Pro Se

- ORAL ARGUMENT REQUESTED -

**FILED
UTAH APPELLATE COURTS
MAY 27 2011**

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STATEMENT OF JURISDICTION

The Utah Court of Appeals has jurisdiction to hear this appeal pursuant to Utah Code Ann. § 78-A-3-102(4) and § 78-4-103(j).

ISSUES PRESENTED

Whether the District was correct in taking subject matter jurisdiction of this case, and in granting a civil stalking injunction to Mr. Towner against Mr. Rigdway, when Mr. Towner relied upon the District Court to assist him in seeking a pro se injunction against an individual he had reason to fear pursuant to Utah Code Annotated § 77-3A-101 (2006), and the Court does not have a signed copy of the original signed petition.

STANDARD OF REVIEW

The issue before this Court was not preserved for appellate review; therefore, the standard of review is plain error or exceptional circumstances. *Tschaggeny v. Milbank Ins. Co.*, 2007 UT 37 ¶ 24, 163 P.3d 615 (citing *State v. Winfield*, 2006 UT 4, ¶ 14, 128 P.3d 1171) (explaining that because an issue was not preserved for appellant review, the court would not review it on appeal absent either plain error or exceptional circumstances).

In *State v. Winfield*, the Court notes, "Generally speaking, a timely and specific objection must be made [at trial] in order to preserve an issue for appeal."

2006 UT 4 ¶ 14, 128 P.3d 1171 (citing *State v. Pinder*, 2005 UT 15, ¶ 45, 114 P.3d 551; see also *State v. Holgate*, 2000 UT 74, ¶ 11, 10 P.3d 346. “When a party raises an issue on appeal without having properly preserved the issue below, “we require that the party articulate an appropriate justification for appellate review,” *Id.* (citing *Pinder*, 2005 UT 15, ¶ 45, 114 P.3d 551) “specifically, the party must argue either “ ‘plain error’ ” or “ ‘exceptional circumstance.’ ” *Id.* (quoting *State v. Pledger*, 896 P.2d 1226, 129 n. 5 (Utah 1995)); accord *State v. Nelson-Waggoner*, 2004 UT 29, ¶ 16, 94 P.3d 786.

STATEMENT OF GROUNDS FOR REVIEW

The sole issue before this Court is whether the initial petition for the ex parte civil stalking injunction was valid because the Court does not have a signed completed copy of the initial petition. This issue was not preserved in the District Court.

RELEVANT STATUTES OF CENTRAL IMPORTANCE

Utah Code Ann. § 76-5-106.5 (2006)

(1) As used in this section:

- (a) “Course of conduct” means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying verbal or written threats or threats implied by conduct or a combination thereof directed at or toward a person.

(b) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months.

(c) "Repeatedly" means on two or more occasions.

(2) A person is guilty of stalking who

(a) intentionally or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person

(i) to fear bodily injury to himself or a member of his immediate family; or

(ii) to suffer emotional distress to himself or a member of his immediate family;

(b) has knowledge or should have knowledge that the specific person

(i) will be placed in reasonable fear of bodily injury to himself or a member of his immediate family; or

(ii) will suffer emotional distress or a member of his immediate family will suffer emotional distress; and

(c) whose conduct

(i) induces fear in the specific person of bodily injury to himself or a member of his immediate family; or

(ii) causes emotional distress in the specific person or a member of his immediate family.

Utah Code Ann. § 77-3a-101 (2006)

See Brief of Appellant, Addendum 2.

Utah Rules of Civil Procedure Rule 60. Relief from judgment or order

(a) Clerical mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

STATEMENT OF THE CASE

Mark Towner, Appellee, and his wife, Carrie Towner, were active members of the Salt Lake County Republican Party and the Utah State Republican Party, as was Mr. Ridgway. (R. 112: 2, 27.) After several years of trying to be amicable with Mr. Ridgway, a final threatening incident, combined with the accumulation of harassing encounters from Mr. Ridgway, led Mr. Towner to file a petition for a civil stalking injunction against Mr. Ridgway. (R. 112:28, 30; R. 1.) Mr. Ridgway attended both an emergency hearing with Judge Peuler (R. 35.), and a final evidentiary hearing with Judge Lindberg. (R. 92-94).

At hearing, Judge Lindberg found the Towners presented enough evidence of physical confrontations, or menacing approaches by Mr. Ridgway, to establish by a preponderance of the evidence that Mr. Towner sought the injunction because

there was a reasonable basis of fear. (R. 112:46.) Thus, Judge Lindberg granted the amended stalking injunction. (R. 92-94.)

Regardless, Mr. Ridgway continually alleged the injunction was wrongfully obtained as “political payback” in an effort to suppress his freedom of speech.

Although the stalking injunction has ran its course, the Towners want the injunction to remain on Mr. Ridgway’s civil record in an effort to protect themselves or others who may experience similar threatening incidents or harassing behavior from Mr. Ridgway. Mr. Ridgway is currently asserting the initial petition for a civil ex parte stalking injunction was invalid and, despite the emergency and evidentiary hearings on this matter, Mr. Ridgway argues the stalking injunction should be removed from his record due to either a clerical error or omissions of Statute that went unnoticed by Mr. Towner, a Court Clerk, a District Court Judge, and his own counsel of record. Thus, almost five years after the District Court issued the injunction, and two years after the injunction has expired, the Towners continue to assert the civil stalking injunction should prevail as a matter of record.

COURSE OF PROCEEDINGS

On May 8, 2006, Mr. Mark E. Towner, petitioned the Third District Court for an ex parte stalking injunction against Mr. Michael Ridgway. (R. 1-3.) On the same day, the case was assigned to Judge Sandra Peuler (*Id.*), and the petition was

reviewed by Judge Paul Maughan, who granted an injunction against Mr. Ridgway, acting in the place of Judge Peuler (R. 19-21.) Shortly thereafter, Mr. Ridgway contested the injunction in an emergency hearing. (R. 35.)

On June 14, 2006, the evidentiary hearing requested by Mr. Ridgway (R.59.) was held by the District Court, (R. 112.), during which Judge Denise Lindberg, acting in the place of Judge Peuler, rejected a motion by Mr. Ridgway to dissolve the injunction, instead, issuing an amended civil stalking injunction that she ruled was to remain in effect for no less than three years from the date of issuance. (R.92.)

Believing the amended signed injunction was a violation of Mr. Ridgway's First Amendment Rights, Mr. Ridgway, through his attorney, Troy Booher, appealed to the Supreme Court, (R. 97-98.), which accepted the appeal and heard the case. (R. 116-126.)

On appeal, the Supreme Court held the language of the amended stalking injunction was not a violation of Mr. Ridgway's First Amendment Rights. (R. 116-126; 117-138.) In spite of this, the case was remanded for the Findings of Fact. (*Id.*) Apparently, the Remander from the Supreme Court was either lost or misplaced, and neither the District Court nor the parties received instruction on how to proceed with the case.

On January 15, 2009, Appellee's counsel agreed to submit the Findings of Fact; however, shortly thereafter, before the Findings of Fact were due, Mr. Ridgway's counsel informed Judge Lindberg that Mr. Ridgway had filed a pro se motion to disqualify her from this case. (R. 185-86.) Judge Lindberg granted Mr. Ridgway's motion, entering a recusal, and referred the case to the Presiding Judge for reassignment. (*Id.*) In a minute entry dated January 22, 2009, Judge Lindberg ruled pursuant to Rule 63, the recusal Minute Entry indicated all proceedings would be stayed pending the reassignment (*Id.*), thus, the submission of the Findings of Fact were stayed until further notice.

On October 2, 2009, Judge Peuler granted Mr. Ridgway's Motion To Dismiss rendering all other issues moot. (R.320-322.) Judge Peuler found because the stalking injunction had expired, it was not necessary to submit Findings of Fact. (*Id.*) However, Mr. Towner filed Findings of Fact and Conclusions of Law with the District Court on October 15, 2009, (*See* District Court Docket Case # 060907552, dated October 15, 2009) (which were proffered to Mr. Ridgway five days earlier without response, and before Mr. Towner had notice that Judge Peuler dismissed the case). The Findings Of Fact are included in the record but remained unsigned because the case was dismissed and the issue ruled moot. (*Id.*; R. 330-339.)

On December 2, 2009, Mr. Ridgway appealed Judge Peuler's decision to grant his motion dismissing the case and rendering all other issues moot. (R.361-362.) The Supreme Court then transmitted this appeal to the Utah Court of Appeals. (R.389-390.)

STATEMENT OF ADDITIONAL FACTS

On May 8, 2006, Mr. Towner sought an ex parte civil stalking injunction against Michael Ridgway. He went to the Utah State Courthouse using the Online Court Assistance Program for a civil ex parte stalking injunction as directed by a Court Clerk. As directed by the computer assisted program, Mr. Towner answered the prompted computer questions and gave a signed completed copy of this paperwork to the Court Clerk. Thereafter, the Court Clerk directed Mr. Towner to the courtroom of the Honorable Paul G. Maughan. Judge Maughan asked Mr. Towner several questions and he signed Mr. Towner's request for an ex parte civil stalking injunction. Thereafter, Mr. Towner returned the paperwork to the Court Clerk. *See* Affidavit and Verified Petition For Civil Stalking Injunction at Addendum 1. However, the Verified Petition for an Ex Parte Injunction the Court has on record, is stamped and initialed by the Court Clerk, but it is not signed by Judge Maughan. *See* Br. of App., at Addendum 1. Although Mr. Towner cannot explain why Judge Maughan's signature is not in the Court record, Mr. Towner complied with all of the regulations of Utah Code Annotated § 77-3a-101 (2006)

and Judge Maughan granted an ex parte injunction against Mr. Ridgway. (R. 19-23.)

SUMMARY OF THE ARGUMENT

The District Court correctly ordered a civil stalking injunction against Mr. Ridgway when Mr. Ridgway demonstrated an aggressive course of conduct threatening the Towners and causing them to have a reasonable basis of fear of bodily injury and suffer emotional distress. Although never addressed at the District Court level, Mr. Ridgway now alleges the initial petition for an ex parte civil stalking injunction is void because it was replete with errors and omissions that went unnoticed by the Court Clerk, a District Court Judge, and his own counsel of record. Thus, due to a clerical error, Mr. Ridgway ironically argues the stalking injunction never took effect. Mr. Ridgway fails to note he had actual notice of the petition, and both an emergency hearing by Judge Pueler and an evidentiary hearing in which Judge Lindberg issued the amended stalking injunction. Additionally, Mr. Ridgway had actual notice of the amended stalking injunction through his counsel of record, Mr. Booher, who accepted service on his behalf. Thus, the omissions of the initial petition are not material.

In his brief, Mr. Ridgway failed to raise any other issues on appeal. Thus, the sole issue in this case is whether the unsigned petition for an ex parte civil stalking injunction is void. Further, the Supreme Court ruled the language of the

amended stalking injunction was not a violation of Mr. Ridgway's First Amendment Rights and the sole issue on appeal from the Supreme Court was whether there was sufficient evidence for the District Court to issue the injunction. The Appellant has narrowly defined his single issue on appeal, which is extremely fact sensitive. Unless this Court finds the omissions of the initial petition are not material, the issue cannot be addressed without remanding this case for Findings of Fact and Conclusions of Law.

ARGUMENT

I. Under Utah Law, Mr. Ridgway's Argument Of An Invalid Amended Stalking Injunction Was Not Preserved At The District Court Level.

Although never addressed at the District Court level, Mr. Ridgway now alleges the omitted signatures of the initial petition for an ex parte civil stalking injunction render this case entirely void, thus, he argues, "the stalking injunction never took effect." *See* Br. of App. at 11. In fact, he argues the court erred in even taking subject matter jurisdiction of this case. *Id.*

The doctrine of invited error is applicable to this issue. "But under the doctrine of invited error, we have declined to engage in even plain error review when "counsel, either by statement or act, affirmatively represented to the [trial] court that he or she had no objection to the [proceedings]." *Tschaggeny v. Milbank Ins. Co.*, 2007 UT 37 ¶ 24, (citing *State v. Hamilton*, 2003 UT 22, ¶ 54, 70 P.3d 111;

accord Pinder, 2005 UT 15, ¶ 62, 114 P.3d. 551; *State v. Geukgeuzian*, 2004 UT 16, ¶ 9, 86 P.3d 742).

In this case, under the doctrine of invited error, the Appellant and his counsel have by both statement and act affirmatively represented to the trial court that he had no objections to the proceedings. Thus, even under a plain error standard of review, Mr. Ridgway's argument cannot prevail.

II. Under Utah Law, A Clerical Error Does Not Void The Amended Stalking Injunction

Mr. Towner's original copy of the verified petition for ex parte injunction, if deemed necessary by this Court, is available in his file and should be admitted under the *Rules of Civil Procedure*, which specifically addresses clerical mistakes and reads:

Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court. *Utah Rules of Civil Procedure*, Rule 60(a).

In this case, on April 5, 2011, Mr. Towner attempted to submit his copy of the Verified Petition For Ex Parte Injunction, which was signed by Judge Maughan; however, this Court declined to offer leave under Rule 60 of the *Rules of Civil Procedure* (dated April 12, 2011), perhaps finding it unnecessary.

Regardless of whether the original signed verified petition for an ex parte injunction was excluded from the court record, Mr. Ridgway expects this court to believe a Court Clerk, who is well trained in rejecting deficiencies, and a District Court Judge, both allowed the issuance of a verified petition for ex parte stalking injunction with glaring omissions. Moreover, Appellant suggests his own counsel failed to notice the fatal defect, which is highly unlikely. In any case, if the Court Clerk failed to file the correct copy of the signed petition, it would amount to nothing more than a ministerial error.

III. Under Utah Law, Mr. Ridgway Had Actual Notice Of The Amended Stalking Injunction.

Mr. Ridgway had actual notice of the verified petition for ex parte stalking injunction as he was granted both an emergency hearing and an evidentiary hearing to dismiss the stalking injunction. Moreover, he continued to appeal this case to the Supreme Court. He also had actual notice through his attorney of record, Mr. Booher, who accepted service on his behalf while he remained his counsel of record. Thus, as noted above, the Appellant objected to the issuance of the stalking injunction, but acted affirmatively in representing to the trial court that he had no objections to the legal proceedings. In short, Mr. Ridgway had actual notice of the Petition for a civil ex parte stalking injunction.

IV. Under Utah Law, The Remaining Issues In This Case May Not Be Answered Without The Submission Of Findings Of Fact And Conclusion Of Law.

Appellee notes, the solitary issue before this Court, is whether the District Court committed reversible error in taking subject matter jurisdiction and granting the stalking injunction against Mr. Ridgway, when the petition on record, which initiated the case, does not meet the particular requirements of Utah Code Ann. § 77-3a-101 (2006). Appellee argues the initial petition was sufficient; however, for reasons beyond the control of the Appellee, the Court does not have the correct copy of the verified petition for a civil ex parte stalking injunction. Therefore, if this Court finds the correct signed copy of the verified petition material, the case must be remanded for the District Court to admit the correct evidence. Further, if the signed petition is material, without the Findings Of Fact the issue cannot be reached.

The Utah Supreme Court addressed the issue of a court's findings of fact in *Chen v. Stewart*, finding "A trial court's findings of fact will not be set aside unless clearly erroneous." 100 P.3d 1177, 1184 (Utah 2004) (citing *State v. Pena*, 869 P.2d 932, 935-36 (Utah 1994.)) "In order to establish that a particular finding of fact is clearly erroneous, "[a]n appellant must marshal the evidence in support of the findings and then demonstrate that despite this evidence, the trial court's

findings are so lacking in support as to be against the clear weight of the evidence." *Id.* (citing *In re Estate of Bartell*, 776 P.2d 885, 886 (Utah 1989) (internal quotations omitted). "If the application of the standard is extremely fact sensitive, then the reviewing court should generally give the trial court considerable discretion in determining whether the facts of a particular case come within the established rule of law." *Id.* (citing *Beesley*, 883 P.2d at 1347-48).

The record does not contain Findings of Facts. Thus, if the Court finds the omission of signatures in the Court's copy of the signed petition for a civil ex parte stalking injunction is more than a clerical error, or that Mr. Ridgway's argument is not moot under the doctrine of invited error, then the Findings of Fact may become essential in resolving the fact based question of whether the petition for an ex parte civil stalking injunction was valid.

CONCLUSION

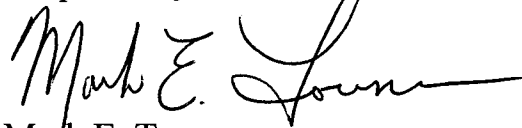
Mr. Ridgway's argument of an invalid amended stalking injunction was not preserved at the District Court level, thus for this reason alone, the unsigned petition in the record should be found not material. Mr. Ridgway had actual notice as he was granted both an emergency hearing and an evidentiary hearing to dismiss the stalking injunction, and he has continued to appeal this case. However, if this Court finds the Court's copy of the unsigned petition and missing supplemental records a salient issue, the case should be remanded to the District Court to allow

the submission of the signed petition in Mr. Towner's personal file under Rule 60 of the Utah Rules of Civil Procedure, or this case should be remanded for the submission of the Findings of Fact.

Almost five years after the District Court issued the stalking injunction, and two years after the injunction has expired, the Towners continue to assert the civil stalking injunction should prevail as a matter of record. Thus, Appellee respectfully requests this court to hold the omissions in the Court's copy of the initial verified petition for a civil ex parte stalking injunction are not material.

Dated this 19th day of 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark E. Towner", with a long horizontal flourish extending to the right.

Mark E. Towner,
Appellee, Pro Se

Mark E. Towner, Appellee and Pro Se Litigant
1331 South Green Street
Salt Lake City, Utah 84105
(801) 502-9134

FILED
UTAH APPELLATE COURTS

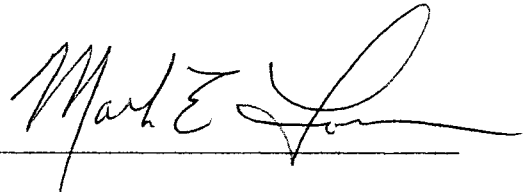
MAY 27 2011

20100208-CA

I hereby certify that two copies of Appellee's Brief were mailed by first class mail to:

Mike Ridgway
610 Columbus Street
Salt Lake City, Utah 84103

on this 19th day of May, 2011.
20th mef



MARK E. TOWNER
Appellee and Pro Se Litigant

ADDENDUM

Tab 1

Mark E. Towner, Appellee and Pro Se Litigant
1331 South Green Street
Salt Lake City, Utah 84105
(801) 502-9134

IN THE UTAH COURT OF APPEALS
FOR THE STATE OF UTAH

MARK E. TOWNER	:	AFFIDAVIT OF MARK TOWNER
Appellee	:	
v.	:	
MICHAEL RIDGWAY	:	
Appellant	:	Case No. 20100208-CA

STATE OF UTAH)
	:ss.
COUNTY OF SALT LAKE)

The affiant, being first duly sworn, states as follows:

1. I am a resident of the State of Utah and I am over the age of eighteen.
2. I have personal knowledge of the matters stated in this affidavit. If called upon to testify I would state that:
3. On May 8, 2006, I sought an ex parte civil stalking injunction against Michael Ridgway.

4. I went to the Utah State Courthouse and used the Online Court Assistance Program for a civil ex parte stalking injunction as directed by Kathy Campbell, Court Clerk.

5. I filled out the form answering questions as directed by the computer system and gave a signed copy of this paperwork to Ms. Campbell.

6. Ms. Campbell directed me to go to the courtroom of the Honorable Paul G. Maughan.

7. I waited in the courtroom until I could be seen by Judge Maughan, handing my paperwork to Judge Maughan's clerk.

8. Judge Maughan called me to the podium, where he asked me questions about the civil ex parte injunction.

9. I explained to Judge Maughan I felt Mr. Ridgway was upset with me and I was afraid for myself and my family.

10. Judge Maughan asked me numerous questions, which I answered.

11. Judge Maughan signed off on my request for an ex parte civil stalking injunction.

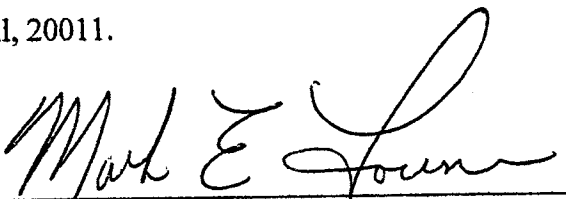
12. I went back to Kathie Campbell and turned in the paperwork.

13. I kept a copy of the Verified Petition For Civil Stalking Injunction handed to me by Kathie Campbell.

14. I have attached a copy of the Injunction to this Affidavit, which is a true and accurate copy of the original document.


FURTHER AFFIANT SAITH NAUGHT.

DATED this 5th day of April, 2011.



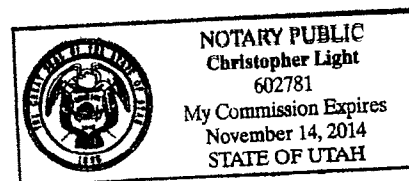
Mark E. Towner

SUBSCRIBED AND SWORN TO before me this 5th day of April, 2011.



NOTARY PUBLIC
Residing at: SIC IT

My Commission Expires: 11-14-14



FILED
DISTRICT COURT
MAY -8 AM 11:01
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY
ISSUED

Name: Mark E Towner
Address: 1331 Green Street
Salt Lake City, UTAH 84105
Telephone: 801-502-9134 (home) 801-502-9134 (work)

IN THE THIRD JUDICIAL DISTRICT COURT
OF SALT LAKE COUNTY, STATE OF UTAH

Mark E Towner,
Petitioner,

vs.

Michael Ridgway,
Respondent.

* EX PARTE CIVIL
*
* STALKING INJUNCTION
*

Case No. 060907552SK

Judge: JUDGE SANDRA PEULER

Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order.

This injunction will be presumed valid until superseded by a subsequent order.

The court has reviewed Petitioner's Petition for Stalking Injunction and has determined that there is reason to believe that an offense of stalking has occurred and the Respondent is the stalker.

Pursuant to Utah Code Ann. § 77-3a-101, the court therefore orders as follows:

X 1. The Respondent is enjoined from stalking Petitioner. (The Utah Code definition of stalking is attached to this order.)


X 2. Respondent is enjoined from going near the following addresses frequented by Petitioner:

Residence: *1331 Green Street*

Work: *1331 Green Street*

School: *U of U*

Other: *Republican Events*

-  X 3. Respondent is restrained from contacting the Petitioner, directly or indirectly, through any form of communication including written, oral, or electronic means, and the Respondent is restrained from contacting the following persons:

Carrie Lynn Towner

Leslie Ann Towner

Andrea E Heid

Krystal E Hoke

Camille L Ala

Carlene Boden

Mark E Towner

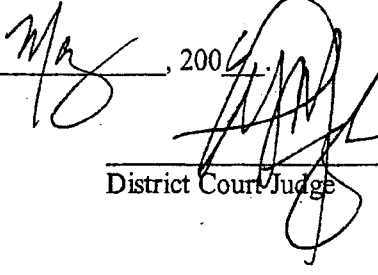
4. Other: _____

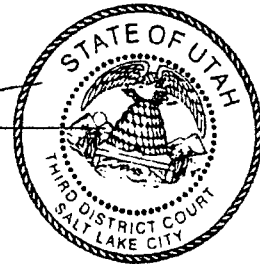
Notice to Respondent:

- a. You may request, in writing, a hearing to contest this order.
- b. The hearing should be requested within 10 days from the date that the order is served on you.
- c. If you fail to request a hearing within 10 days, this order will become a civil stalking injunction which will not expire until 3 years after it is served.

- d. You may request a hearing after the 10 day period, but you will have the burden of challenging the injunction.

DATED this 8 day of Mar, 2006


District Court Judge



Serve Respondent at:
317 N 'K' St B
Salt Lake City, UTAH 84105

76-5-106.5. Definitions -- Stalking -- Injunction -- Hearing.

(1) As used in this section:

- (a) "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying verbal or written threats or threats implied by conduct or a combination thereof directed at or toward a person.
- (b) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months.
- (c) "Repeatedly" means on two or more occasions.

(2) A person is guilty of stalking who:

- (a) intentionally or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person:
- (i) to fear bodily injury to himself or a member of his immediate family; or
 - (ii) to suffer emotional distress to himself or a member of his immediate family;
- (b) has knowledge or should have knowledge that the specific person:
- (i) will be placed in reasonable fear of bodily injury to himself or a member of his immediate family; or
 - (ii) will suffer emotional distress or a member of his immediate family will suffer emotional distress; and
- (c) whose conduct:
- (i) induces fear in the specific person of bodily injury to himself or a member of his immediate family; or
 - (ii) causes emotional distress in the specific person or a member of his immediate family.

(3) A person is also guilty of stalking who intentionally or knowingly violates a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions, or intentionally or knowingly violates a permanent

criminal stalking injunction issued pursuant to this section.

(4) Stalking is a class A misdemeanor:

(a) upon the offender's first violation of Subsection (2); or

(b) if the offender violated a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions.

(5) Stalking is a third degree felony if the offender:

(a) has been previously convicted of an offense of stalking;

(b) has been convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(c) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking or a member of the victim's immediate family was also a victim of the previous felony offense; or

(d) violated a permanent criminal stalking injunction issued pursuant to Subsection (7).

(6) Stalking is a felony of the second degree if the offender:

(a) used a dangerous weapon as defined in Section 76-1-601 or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(b) has been previously convicted two or more times of the offense of stalking;

(c) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(d) has been convicted two or more times, in any combination, of offenses under Subsection (5); or

(e) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses.

(7) A conviction for stalking or a plea accepted by the court and held in abeyance for a period of time shall operate as an application for a permanent criminal stalking injunction limiting the contact of the defendant and the victim.

(a) A permanent criminal stalking injunction shall be issued without a hearing unless the defendant requests a hearing at the time of the verdict, finding, or plea of guilty, guilty and mentally ill, plea of no contest, or acceptance of plea in abeyance. The court shall give the defendant notice of his right to request a hearing.

(i) If the defendant requests a hearing, it shall be held at the time of the verdict, finding, or plea of guilty, guilty and mentally ill, plea of no contest, or acceptance of plea in abeyance unless the victim requests

otherwise, or for good cause.

(ii) If the verdict, finding, or plea of guilty, guilty and mentally ill, plea of no contest, or acceptance of plea in abeyance was entered in a justice court, a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance must be filed by the victim in the district court as an application and request for hearing for a permanent criminal stalking injunction.

(b) A permanent criminal stalking injunction may grant the following relief:

(i) an order restraining the defendant from entering the residence, property, school, or place of employment of the victim and requiring the defendant to stay away from the victim and members of the victim's immediate family or household and to stay away from any specified place that is named in the order and is frequented regularly by the victim; and

(ii) an order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally or through an agent initiating any communication likely to cause annoyance or alarm, including personal, written, or telephone contact with the victim, the victim's employers, employees, fellow workers, or others with whom communication would be likely to cause annoyance or alarm to the victim.

(c) A permanent criminal stalking injunction may be dissolved upon application of the victim to the court which granted the order.

(d) Notice of permanent criminal stalking injunctions issued pursuant to this section shall be sent by the court to the statewide warrants network or similar system.

(e) A permanent criminal stalking injunction issued pursuant to this section shall be effective statewide.

(f) Violation of an injunction issued pursuant to this section shall constitute an offense of stalking.

Violations may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

(g) Nothing in this section shall preclude the filing of a criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions, or permanent criminal stalking injunction.

Amended by Chapter 276, 2001 General Session

FILED
DISTRICT COURT
06 MAY -8 AM 11:01

FILED DISTRICT COURT
Third Judicial District

THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY

MAY 08 2006

SALT LAKE COUNTY

Name: **Mark E. Towner**
Address: 1331 Green Street
Salt Lake City, UTAH 84105
Telephone: 801-502-9134 (home) 801-502-9134 (work)

By _____
Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT
OF SALT LAKE COUNTY, STATE OF UTAH

Mark E Towner,
Petitioner,

vs.

Michael Ridgway,
Respondent.

* **VERIFIED PETITION FOR CIVIL**
* **STALKING INJUNCTION**
*
*
* Case No. 060907552SK
*
* **JUDGE SANDRA PEULER**
* Judge: _____

The Petitioner alleges against the Respondent and states as follows:

1. Petitioner is a victim of stalking.
2. Petitioner believes that the Respondent is the stalker.
3. The specific acts supporting this allegation are as follows:

Virtually every Republican Event. Mr Ridgway will make comments to myself or my wife about past incidents where as officers in the party we ruled against him on numerous issues. I would say there has been 10-15 incidents since 2002

4. The acts described above are corroborated by the evidence attached to this petition. (Attach affidavits of witnesses, letters from the Respondent, transcripts of conversations, a police report, or any other evidence which tends to support the allegations.)

Note: If any court order has been issued concerning the conduct described in paragraph 3, please attach a copy of the order.

5. The current address of the Respondent is: 317 N 'K' ST B, Salt Lake City, UTAH 84105

Petitioner requests an ex parte stalking injunction which would include the following:

1. Enjoin the Respondent from stalking the Petitioner.
2. Enjoin the Respondent from coming near the following addresses frequented by Petitioner:

Residence: 1331 Green Street

Work: 1331 Green Street

School: U of U

Other: Republican Events

3. Restrain the Respondent from contacting Petitioner either directly or indirectly, through any form of communication including written, oral, electronic, and restrain the Respondent from contacting the following persons:

Carrie Lynn Towner

Leslie Ann Towner

Andrea E Heid

Krystal E Hoke

Camille L Ala

Carlene Boden

Mark E Towner

4. Order additional relief as follows:

Blocked from Republican Events such as conventions, central committee meetings, rallies. Blocked from handing out flyers that are not fact based about myself, my wife, or anyone else

5. Issue an ex parte civil stalking injunction, with or without a hearing, as appropriate.

DATED: 5/8/2006

State of Utah)
) ss:
Salt Lake County)

Being sworn, I state that I am the Petitioner; that I have read this Petition and the statements in it are true and correct to the best of my knowledge; that I believe I am entitled to the relief requested, and that this Petition is not being used to harass or to abuse process.

Petitioner

Subscribed and sworn to before me on

Clerk or Notary Public
Residing at:
My Commission Expires:

Serve Respondent at:
317 N 'K' ST B
Salt Lake City, 84105

Tab 2

FILED
DISTRICT COURT

06 MAY -8 AM 11:01

THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY

FILED DISTRICT COURT
Third Judicial District

MAY 08 2006

SALT LAKE COUNTY

By [Signature] Deputy Clerk

Name: Mark E Towner
Address: 1331 Green Street
Salt Lake City, UTAH 84105
Telephone: 801-502-9134 (home) 801-502-9134 (work)

IN THE THIRD JUDICIAL DISTRICT COURT
OF SALT LAKE COUNTY, STATE OF UTAH

IMAGED

Mark E Towner,
Petitioner,

vs.

Michael Ridgway,
Respondent.

* **VERIFIED PETITION FOR CIVIL**
* **STALKING INJUNCTION**
*

Case No. 060907552SK

Judge: JUDGE SANDRA PEULER

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1. Petitioner is a victim of stalking.
2. Petitioner believes that the Respondent is the stalker.
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Verified Petition for Civil Stalking Injunction



05/08/2006

Verified Petition for Civil Stalki

HD20223956

RIDGEWAY, MICHAEL

Note: If any court order has been issued concerning the conduct described in paragraph 3, please attach a copy of the order.

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84105

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Work: *1331 Green Street*

School: *U of U*

Other: *Republican Events*

3. Restrain the Respondent from contacting Petitioner either directly or indirectly, through any form of communication including written, oral, electronic, and restrain the Respondent from contacting the following persons:

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Leslie Ann Towner

Andrea E Heid

Krystal E Hoke

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Blocked from Republican Events such as conventions, central committee meetings, rallies. Blocked from handing out flyers that are not fact based about myself, my wife, or anyone else

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DATED: _____

State of Utah)
) ss:
County)

Being sworn, I state that I am the Petitioner; that I have read this Petition and the statements in it are true and correct to the best of my knowledge; that I believe I am entitled to the relief requested, and that this Petition is not being used to harass or to abuse process.

Petitioner

Subscribed and sworn to before me on _____

Clerk or Notary Public
Residing at:
My Commission Expires:

Serve Respondent at:
317 N 'K' ST B
Salt Lake City, 84105

**Salt Lake County
UTAH**

Silvan D. Warnick
Constable



STATE OF UTAH)
: SS
COUNTY OF SALT LAKE)

AFFIDAVIT OF SERVICE

I, Silvan Warnick, being first duly sworn upon my oath say:
I am a CONSTABLE of Salt Lake County, State of Utah and I am a citizen of the United States over the age of 18 years at the time of service herein, and not a party to or interested in the within action.

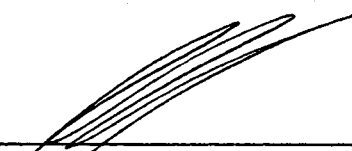
On May 11, 2006, I received the within and hereto annexed:

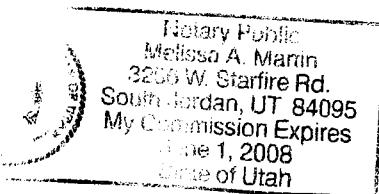
1. Injunction for: **Defendant, Michael Ridgway;**
and I served said article(s) by leaving a true copy with:

1. **Michael Ridgway, Personally**
a person of suitable age and discretion, where the within named party was residing at,
317 N K Street, Salt Lake City, UT
the property where service was made, on **May 11, 2006**

I further certify that at the time of service of the said article(s), I endorsed the date and place of service and added my name and official title thereto.

Subscribed and sworn to before me this May 11, 2006.


3256 WEST STARFIRE ROAD, SOUTH JORDAN, UTAH, 84095



SERVICE CHARGES:	50.00
MILEAGE:	7.50
Rush	25.00
TOTAL CHARGES:	82.50


NOTARY PUBLIC Residing at Salt Lake City, Utah

Case #: 0609075525

Salt Lake District Court

NOTES:

SW went to Defendant's house and called Defendant from he and his Mother's house, she gave me his phone number, and he said he was too far out west and to please leave it with his mother.